

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1999-463-C - ORDER NO. 2000-0265
MARCH 20, 2000

IN RE: Application of American MetroComm/South) ORDER GRANTING
Carolina, Inc. for a Certificate of Public) CERTIFICATE AND
Convenience and Necessity to Provide Local) APPROVING FLEXIBLE
Exchange Telecommunications Services, and) REGULATORY
for Flexible Regulatory Treatment) TREATMENT

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of American MetroComm/South Carolina, Inc. ("American Metro" or the "Company") for authority to provide local exchange telecommunications within the State of South Carolina. The Company requests that the Commission regulate its local exchange service offerings in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. The Application was filed pursuant to S.C. Code Ann. Sections 58-9-280 and 58-9-520 (Supp. 1999) and the Rules and Regulations of the Commission.

By letter, the Commission's Executive Director instructed American Metro to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. American Metro complied with this instruction and provided the Commission with

proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

On February 3, 2000, counsel for SCTC filed with the Commission a Stipulation in which American Metro stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until American Metro provided written notice of its intent prior to the date of the intended service. American Metro also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. American Metro agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to American Metro provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on February 23, 2000, at 2:30 p.m. in the Commission's Hearing Room. The Honorable Philip T. Bradley, Chairman, presided. American Metro was represented by Bonnie D. Shealy, Esquire. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Michael Henry, Chief Executive Officer of American Metro, appeared and testified in support of the Application. According to Henry, American Metro seeks authority to provide a wide variety of local telecommunications services to customers within South Carolina. Additionally, American Metro seeks approval of the flexible rate structure for its local exchange

service offerings similar to that approved by Order No. 1998-165 in Docket No. 1997-467-C. In addition, American Metro requests that the Commission approve waivers of certain Commission regulations and practices for American Metro's operations within South Carolina.

Henry explained that American Metro is a wholly-owned subsidiary of American MetroComm Corporation. American MetroComm Corporation, the parent company, is a Louisiana corporation, while American Metro, the applicant herein, is a South Carolina corporation. The corporate offices of American MetroComm Corporation and American Metro are located in New Orleans, Louisiana. Sister companies of American Metro are currently certified as competitive local exchange providers and resellers of long distance services in Alabama, Florida, Louisiana, Mississippi, and Texas.

Henry testified that American Metro will offer local services to residential and business customers which are competitive with and comparable to local services offered by the incumbent local exchange carriers ("ILECs"). American Metro's target market is the business customer with 5 to 50 lines. American Metro intends to offer several service options at rates competitive with those of the ILECs. American Metro will resell the retail services of the ILEC and will also be building its own facilities for handling calls in some locations. American Metro will interface with the ILEC for maintenance because it will not have its own outside plant facilities. However, American Metro will have employees trained and capable of maintaining the facilities that the Company installs within South Carolina. Henry stated that American Metro has signed an interconnection agreement with BellSouth.

Henry described American Metro's management team as having extensive experience in both the telecommunications industry and in a wide variety of other disciplines. American

Metro's management team consists of Henry; James Michael Gordon, President; Dennis E. Kelly, Vice President/Secretary; Charles W. Stewart, Vice President/Treasurer; Penya M. Fields, Assistant Secretary; and Davis C. Joseph, Assistant Secretary. Henry lists among his business experiences as being a former COBOL programmer and CICS programmer and has worked in installing and configuring sophisticated hardware for long distance aggregators. Mr. Gordon has amassed sixteen years experience in the telecommunications industry in various positions. Mr. Kelly is a practicing attorney and consultant in New Orleans, focusing on the telecommunications industry.

Regarding American Metro's technical resources, the record reveals a commitment that American Metro will use only reputable underlying carriers to ensure that high quality service is provided to customer. American Metro will also rely on the technical expertise of its officers and employees. With regard to American Metro's financial resources, Henry stated that American Metro has more than ample financial resources for the successful provision of its telecommunications services.

Henry described American Metro's billing and customer service functions. American Metro will perform its own billing services. Customer service is available through a toll free number, Monday through Friday from 8:00 A.M. to 5:00 P.M. Central time. Calls outside normal hours will reach an answering service and will either be returned the next business day or will be routed to the designated after hours company representative for matters requiring immediate attention.

Upon certification from this Commission, Henry warranted that American Metro will abide by all the Rules and Regulations of the South Carolina Public Service Commission. Henry

affirmed that American Metro would participate in support of universally available telephone service at affordable rates and that American Metro would provide services which meet the applicable service standards of the Commission. Further, Henry testified that the provision of local service by American Metro would neither adversely impact the public interest nor would American Metro's service adversely impact the availability of affordable local exchange service. Henry offered that approval of American Metro's application is in the public interest as certification of American Metro will increase the level of local competition in South Carolina and will expand subscriber awareness of options and services available.

Henry requested that American Metro be granted a waiver of Commission Regulation 103-610 which requires a company to maintain its books and records within the State of South Carolina. Henry stated that American Metro's books and records will be maintained in New Orleans. Henry also requested that American Metro be allowed to keep its books and records in accordance with Generally Accepted Accounting Principles ("GAAP"), rather than under the Uniform System of Accounts ("USOA"). Henry stated that American Metro currently maintains its records using GAAP and that it wishes to avoid maintaining two sets of books. American Metro also seeks a waiver of Commission Regulation 103-631 which requires the publishing of a local directory. American Metro states that it will arrange for its customers to be published in the ILEC directory. Finally, American Metro requests a waiver of any reporting requirement not applicable to a resale local provider.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. American Metro is organized as a corporation under the laws of the State of South Carolina and its parent company American MetroComm Corporation is organized under the laws of the State of Louisiana.

2. American Metro is a provider of local exchange services and wishes to provide its services in South Carolina.

3. The Commission finds, based upon the evidence presented at the hearing, that American Metro has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B)(1) (Supp. 1999).

4. The Commission finds that American Metro's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 1999).

5. The Commission finds that American Metro will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B)(4) (Supp. 1999).

6. The Commission finds that American Metro will provide services which will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B)(2) (Supp. 1999).

7. The Commission finds that the provision of local exchange service by American Metro "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 1999).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to American Metro to provide competitive intrastate local exchange service in South Carolina. The terms of the Stipulation between American Metro and SCTC are approved and adopted as a part of this Order. Any proposal to provide service to rural service areas is subject to the terms of the Stipulation

2. American Metro shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. American Metro's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for American Metro's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, American Metro's local exchange service tariff filings will be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. American Metro shall file annual financial information as the Commission requires of competitive local exchange companies. This information includes annual reports and gross receipts reports. As the annual report and the gross receipt report necessitate the filing of

intrastate information, American Metro shall keep such financial records on an intrastate basis as needed to comply with these reporting requirements.

4. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

American Metro shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment A shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

5. American Metro shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

6. American Metro requested waivers from certain Commission regulations and requirements. Specifically, American Metro requested waivers from (1) the requirement found in Rule 103-631 to publish and distribute local exchange directories, (2) the requirement contained in Rule 103-610 that all records be kept within the State of South Carolina, and (3) any requirement to maintain books and records in compliance with the USOA. The Commission

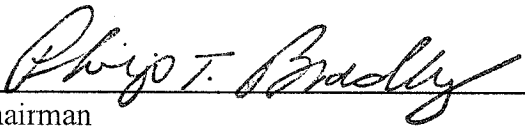
grants the request for waiver from the requirement to publish directories as American Metro has indicated that it will contract with the local incumbent local exchange company to include the customers of American Metro in the directory listing of the ILEC directory. Further, the Commission grants the request for a waiver from the requirement contained in Rule 103-610 that all records be kept within the State of South Carolina as American Metro has indicated that its principal place of business is located in New Orleans, Louisiana. Furthermore, American Metro has indicated that it will make its records available for inspection upon request by the Commission. Further, the Commission grants American Metro's request that it be allowed to keep its books and records in accordance with GAAP rather than the USOA. The Commission at this time, however, denies American Metro's request that it be exempt from any report not applicable to a resale local provider. This request is too nebulous and speculative to grant. American Metro will be subject to the same reporting requirements as all other CLECs. American Metro is directed to comply with all Commission regulations, unless a regulation is specifically waived by the Commission.

7. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs American Metro to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before beginning telephone service in South Carolina. Accompanying

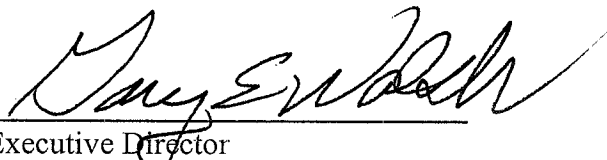
this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, American Metro shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

8. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

BEFORE
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OF
SOUTH CAROLINA

Docket No. 1999-463-C

Re: Application of American MetroComm/South)
Carolina, Inc. for a Certificate of Public)
Convenience and Necessity to Provide Local)
Exchange Telecommunications Services in)
the State of South Carolina)
_____)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and American MetroComm/South Carolina, Inc. ("American Metro") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose American Metro's Application. SCTC and American Metro stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to American Metro, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. American Metro stipulates and agrees that any Certificate which may be granted will authorize American Metro to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. American Metro stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. American Metro stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area,

unless and until American Metro provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, American Metro acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. American Metro stipulates and agrees that if American Metro gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then American Metro will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. American Metro acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

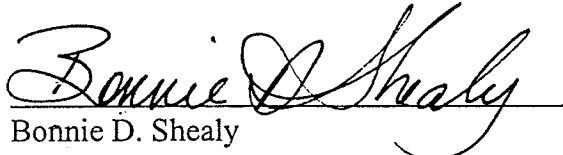
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. American Metro agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. American Metro hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

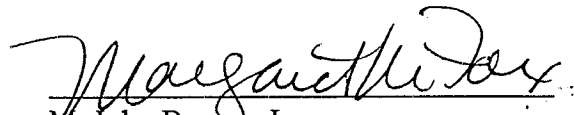
AGREED AND STIPULATED to this 26th day of January, 2000.

American MetroComm/South Carolina, Inc.:


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Attorneys for the South Carolina Telephone
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

AUTHORIZED UTILITY REPRESENTATIVE INFORMATION

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION REGULATION

103-612.2.4(b) - Each utility shall file and maintain with the Commission the name, title, address, and telephone number of the persons who should be contacted in connection with General Management Duties, Customer Relations (Complaints), Engineering Operations, Test and Repairs, and Emergencies during non-office hours.

Company Name (Including dba Name(s) or Acronyms used or to be used in South Carolina)

Business Address

City, State, Zip Code

A.

General Manager Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

B.

Customer Relations (Complaints) Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

C.

Engineering Operations Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

D.

Test and Repair Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

E.

Contact for Emergencies During Non-Office Hours (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

F.

Financial Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

G.

Customer Contact Telephone Number for Company (Toll Free)

This form was completed by

Signature

**If you have any questions, contact the Consumer Services Department (803-896-5230)
or Utilities Department at (803-896-5105).**